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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,705	07/21/2003	Michael Dean Gatten	0108	4384
32366	7590	02/10/2004	EXAMINER	
BRUCE E. WEIR 12 SPARROW VALLEY COURT MONTGOMERY VILLAGE, MD 20886-1265			TRETTEL, MICHAEL	
		ART UNIT	PAPER NUMBER	
		3673		

DATE MAILED: 02/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/622,705	GATTEN, MICHAEL DEAN
	<b>Examiner</b>	<b>Art Unit</b>
	Michael Trettel	3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10/20/2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 7 and 8 is/are allowed.  
 6) Claim(s) 1,2,5 and 6 is/are rejected.  
 7) Claim(s) 3 and 4 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/20/2003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Drawings*

This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 5, and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Gibson (6,640,340). Gibson shows an infant swaddling blanket 10 that comprises an irregularly shaped body 12 as shown in Figure 1 that is folded over on a line 20 to form an upper panel 14 and a lower panel 16. The opposed edges of the panels 14, 16 are joined together along edges 22, 26, with a center panel then being formed defined by fold lines 42, 44 as shown in Figure 2. The center panel defines a pocket between the upper and lower panels that can receive an infant as shown in Figure 4, with a first arm 30 being defined by the edge 26 and fold line 44, and a

second arm 40 being defined by the fold line 42 and edge 22. Note that the arms are differing in size and/or width. The arms can be folded over the top of the infant as shown in Figures 5 to 9.

Claims 1, 2, and 5 are rejected as being anticipated by Dern (1,584,853). Dern shows an infant swaddling blanket that comprises a square panel 10 of textile material turned on one edge to define four corners 19, 21, 24, and 25. A back panel for receiving the infant is thus defined by a pair of side folds and a bottom fold shown as dotted lines in Figures 2 to 5. A pouch 17 is attached to the back panel and can be folded back to receive an infant, that pouch can then be folded back and secured along its edges to the blanket panel. The bottom edge of the pouch is adjacent to the bottom fold line of the back panel. After the infant is placed within the pouch a bottom flap is folded over the pouch as shown in Figure 4, and then a first blanket arm shown as the upper triangular flap in Figures 2 to 5 is folded down over the infant. The second blanket arm shown by the bottom triangular flap is then folded up and over the infant to form the pouch shown in Figure 1.

#### *Allowable Subject Matter*

Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 7 and 8 are allowed.

#### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lear, Berger, Ruefer, Schneider, Mohler, and Crosby show infant swaddling blankets that are of particular interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is 703-308-0416. The examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
Michael Trettel  
Primary Examiner  
Art Unit 3673